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Supreme Court, U.S.
FILED
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OFFICE OF THE CLERK

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No.

IN THE

Supreme Court of the United States

SHIRLEY A. BROWN

Petitioner

v.

HON. CORNELIUS BLACKSHEAR, ET AL.

Respondent(s)

On Petition For Writ Of Certiorari
To The United States Court of Appeals For The Second Circuit

PETITION FOR WRIT OF *CERTIORARI*

SHIRLEY A. BROWN
PRO SE
1701 JOPLIN AVENUE
RICHMOND, VIRGINIA 23224
(804) 370-4847

QUESTIONS PRESENTED FOR REVIEW

1. Why is "Absolute Immunity" applicable in my case, since the Honorable Cornelius Blackshear was advised of the "Illegal Foreclosure" by Aames Capital Corporation in time to void the sale?

2. Why am I, a Pro Se litigant, being required to know and observe legal protocol with reference to my neglect of obtaining permission from the Bankruptcy Court before filing my suit?

3. Why have the Courts upheld the violation of my constitutional right for protection under Chapter 13 Bankruptcy Law?

4. Why did the Court indirectly lead me to anticipate that I could get a jury trial?

LIST OF PARTIES

All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Jeffrey Sapir,
Trustee

and

Jody Kava, Esq.
Respondents

TABLE OF CONTENTS

OPINIONS BELOW 1
JURISDICTION 2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED 3
STATEMENT OF THE CASE 4
REASONS FOR GRANTING THE WRIT 6
CONCLUSION 7

INDEX TO APPENDICES

APPENDIX A Decision of the United States Court of Appeals for the Second Circuit.

APPENDIX B Decision of the United States District Court Southern District of New York.

APPENDIX C Complaint demanding a Jury Trial.

APPENDIX D Receipt acknowledging my complaint.

APPENDIX E Notice of Appeal.

APPENDIX F United States Bankruptcy Court Southern District of New York: Case No. 99B46584 Copy of Official Transcript dated August 3, 2000.

APPENDIX G Letter from the State of New York Office of the Attorney General: David Lawrence III, Assistant Solicitor General to Anna Steglich, Deputy Clerk, United States Court of Appeals for the Second Circuit.

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

The opinion of the United States Court of Appeals appears at Appendix A to the opinion and is unpublished.

The opinion of the United States District Court appears at Appendix B and is unpublished.

JURISDICTION

The date which the United States Court of Appeals decided my case was September 19, 2007.

No petition for rehearing was filed in my case.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED.

Absolute Judicial Immunity for Federal Judges: Mireles V. Waco, 502 U.S. 9.12 (1991) All cases referenced in Appendix A – footnote 1.

The Barton Doctrine: Barton V. Barbour, 104 U.S. 126 (1881)

Bankruptcy Law 11 USC, section 362

STATEMENT OF THE CASE

On March 3, 2006, I filed a complaint[1] demanding a jury trial against the Honorable Cornelius Blackshear, Jeffrey Sapir, trustee and Jody Kava, an attorney representing the bankruptcy estate.

My complaint was received by the District Court Southern District on March 6, 2006[2]. Upon the receipt and acceptance of my complaint, since my papers were in order, I assumed that my demand for a jury trial would be scheduled.

Unfortunately, my assumption was incorrect. On August 24, 2006, my complaint O6CV6253[3] was dismissed by Chief Judge Kimba M. Wood indicating that federal judges have absolute immunity from judicial acts performed in their judicial capacities.

True, I do not have an arguable basis with reference to law. On the other hand, on fact my ground for suit is sound. Judge Blackshear did not err or exceed his legal capacity unknowingly. On August 3, 2000[4] the respondents were informed of the "illegal" foreclosure sale by Aames Capital Corporation.

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1 Note Appendix C
2 Note Appendix D
3 Note Appendix B
4 Note Appendix F

On August 29, 2006, the court was advised of my intention to file an appeal[5]. At this juncture, I believed that I would get a jury trial.

During the first week of November 2006, I received a copy of a letter[6] which had been sent to Anna Steglich, Deputy Clerk for the United States Court of Appeals. The letter was sent from the State of New York Office of the Attorney General by David Lawrence, III, Assistant Solicitor General.

Mr. Lawrence was advising Ms. Steglich to remove Attorney General Spitzer as counsel for the defendants-appellees.

In my opinion, it is apparent that the Court of Appeals was contemplating granting me a jury trial. The contents of Mr. Lawrence's letter confirms my opinion since, the Court of Appeals was seeking counsel for the respondents.

A jury trial was not granted, and my appeal was denied[7]

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5 Note Appendix E
6 Note Appendix G
7 Note Appendix A

REASONS FOR GRANTING THE PETITION

The Petition should be granted because my complaint has merit. As a citizen with no legal training, I have thoroughly documented that absolute immunity should not apply in my case.

The Petition should be granted to allow my case to modify law granting absolute immunity for federal judges. A favorable outcome will eleviate the pain and suffering which I have endured, during the past eight years.

In addition, I believe that individuals who are unable to afford legal representation will benefit from a favorable decision.

Lastly, I believe that the petition should be granted to afford all citizens equal protection under the Constitution of the United States. Presently, Federal judges, "in essence", I believe operate as they please, since they do not have to be accountable for their decisions.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Date: February 15, 2008

06-4786-cv
Brown V. Blackshear

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO SUMMARY ORDERS FILED AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY THIS COURT'S LOCAL RULE 32.1 AND FEDERAL RULE OF APPELLATE PROCEDURE 32.1 IN A BRIEF OR OTHER PAPER IN WHICH A LITIGANT CITES A SUMMARY ORDER, IN EACH PARAGRAPH IN WHICH A CITATION APPEARS, AT LEAST ONE CITATION MUST EITHER BE TO THE FEDERAL APPENDIX OR BE ACCOMPANIED BY THE NOTATION: "(SUMMARY ORDER)". A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF THAT SUMMARY ORDER TOGETHER WITH THE PAPER IN WHICH THE SUMMARY ORDER IS CITED ON ANY PARTY NOT REPRESENTED BY COUNSEL UNLESS THE SUMMARY ORDER IS AVAILABLE IN AN ELECTRONIC DATABASE WHICH IS PUBLICLY ACCESSIBLE WITHOUT PAYMENT OF FEE (SUCH AS THE DATABASE AVAILABLE AT HTTP://WWW.CA2.USCOURTS.GOV/). IF NO COPY IS SERVED BY REASON OF THE AVAILABILITY OF THE ORDER ON SUCH A DATABASE, THE CITATION MUST INCLUDE REFERENCE TO THAT DATABASE AND THE DOCKET NUMBER OF THE CASE IN WHICH THE ORDER WAS ENTERED.

At a Stated Term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street in the City of New York, on the 19th day of September, two thousand and seven.

PRESENT:

HON. JOHN M. WALKER, JR.,
HON. GUIDO CALABRESI,
HON. ROBERT D. SACK,
Circuit Judges.

SHIRLEY A. BROWN,

Plaintiff-Appellant,

-v.- No. 06-4786-cv

CORNELIUS BLACKSHEAR, JODY KAVA,

Defendants-Appellees,

JEFFREY SAPIR,

Trustee-Appellee.

FOR PLAINTIFF-APPELLANT:
SHIRLEY A. BROWN, Richmond, VA.

FOR APPELLEES:
JEFFREY L. SAPIR, Trustee-Appellee, JODY L. KAVA, Defendant-Appellee, White Plains, N.Y.

UPON DUE CONSIDERATION of this appeal from a judgment entered in the United States District Court for the Southern District of New York (Wood, J.), it is hereby **ORDERED, ADJUDGED, AND DECREED** that the judgment of the district court is **AFFIRMED.**

Plaintiff-Appellant Shirley A. Brown appeals from a district court decision dismissing her complaint pursuant to 28 U.S.C. §§ 1915(e)(2)(B)(ii), (iii). She brought an action against Defendants Appellees Cornelius Balckshear, a federal bankruptcy judge, and Jody Kava, an attorney representing the bankruptcy estate, as well as Trustee-Appellee Jeffrey Sapir, alleging that her bankruptcy case was improperly handled.

We review this dismissal *de novo*. *Giano v. Goord*, 250 F.3d 146,149-50 (2d Cir. 2001). For substantially the same reasons given by the district court, we find that Appellant has failed to state a claim upon which relief may be granted.

We have considered all of Brown's claims and find them without merit. The judgment of the district court is therefore AFFIRMED.

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk of Court

By: S/ _____

LUCILLE CARR

Appendix A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

X

SHIRLEY A. BROWN,

Plaintiff,

-against-

HON. CORNELIUS BLACKSHEAR;
JEFFREYSAPIR, TRUSTEE;
JODY KAVA, ESQ.,

Defendants.

CIVIL

JUDGMENT

X

Pursuant to the order issued 8/14/06 by the Honorable Kimba M. Wood, Chief Judge, dismissing the complaint under 42 U.S.C. § 1983, it is,

ORDERED, ADJUDGED AND DECREED: That the complaint be and it is hereby dismissed. 28 U.S.C. § 1915(e)(2)(B)(ii), (iii). I certified pursuant to 28 U.S.C. §§1915(a)(3) that any appeal from the Court's order would not be taken in good faith.

S/_____
KIMBA M. WOOD
Chief Judge

Date: 8/14/06
New York, New York

THIS DOCUMENT WAS ENTERED ON THE DOCKET ON _____.

JUDGE MUKASEY 06CV6253
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SHIRLEY A. BROWN,

Plaintiffs,

-against-

HON. CORNELIUS BLACKSHEAR;
JEFFREYSAPIR, TRUSTEE;
JODY KAVA, ESQ.,

Defendants.

ORDER OF DISMISSAL

(Filed US District Court Aug. 17, 2007)

Plaintiff, *pro se*, brings this action against a federal bankruptcy judge, a trustee and an attorney, alleging that her bankruptcy case was improperly handled. Specifically, she alleges that the Court improperly handled her case by failing to void the foreclosure and the eventual sale of a property at issue in her bankruptcy proceedings. Plaintiff claims that the Court refused to allow her "adequate time to start over." She seeks monetary damages. I grant plaintiff's request to proceed in *forma pauperis*, but dismiss the complaint for the following reasons.

DISCUSSION

Defendant Blackshear

Plaintiff's claims against the Honorable Cornelius Blackshear must be dismissed.[1] Judges have absolute immunity form suit for judicial acts performed in their judicial capacities. Mireles v. Waco, 502 U.S. 9,12 (1991) (per curiam) ("judicial immunity is an immunity from suit, not just from the ultimate of damages.") (citation omitted). This absolute "judicial immunity is not overcome by allegations of bad faith or malice," nor can a judge "be deprived of immunity because the action he took was in error... or was in excess of his authority." Mireles. 502 U.S. at 12-13 (quoting Stump v. Sparkman. 435 U.S. 349,356 (1978)). Here, plaintiff is clearly dissatisfied that the judge dismissed her bankruptcy case with prejudice. As the alleged wrongdoings of this federal judge, however, were acts performed in his judicial capacity, plaintiffs claims are foreclosed by absolute immunity and are subject to dismissal because they "lack[] an arguable basis either in law or in fact." Neitzke v. Williams. 490 U.S. 319,325 (1989)

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[1] To the extent plaintiff seeks to assert claims against Judge Blackshear, a federal bankruptcy judge at the United States Bankruptcy Court for the Southern District of New York, the complaint is liberally construed as an action brought pursuant to Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S.C. 388 (1971), since she is alleging violations of her rights by a federal defendant. Federal courts have analogized Bivens claims to claims under 42 U.S.C. 1983 which require a showing that defendants acted under color of state law to deprive plaintiff of a constitutional right and have used 1983 cases as precedent for Bivens cases. Butz v. Economou, 438 U.S. 478, 498-99 (1978); Robinson v. Overseas Military Sales Corporation, 21 F.3d 502, 510 (2d Cir. 1994); Daloia v. Rose, 849 F.2d 74, 75 (2d Cir. 1988); Barbera v. Smith, 654 F. Supp. 386,390 (S.D.N.Y. 1987).

(claim against an immune defendant dismissible); see 28 U.S.C. § 1915(e)(2)(B)(iii).[2]

Defendant Sapir

Furthermore, to the extent plaintiff seeks to bring this action against Jeffrey Sapir, a trustee in her bankruptcy case, her claims must be dismissed under the Barton doctrine. In Barton v. Barbour. 104 U.S. 126 (1881), the Supreme Court held that before an individual could bring suit against a receiver appointed by a federal court, "leave of the court by which he was appointed must be obtained." Id at 127. That ruling, known as the Barton doctrine, has been applied to suits against trustees for acts taken in their capacities as trustees. See In re Lehal Realty Associates. 101 F.3d 272,276 (2d Cir. 1996) (citing to Vass v. Conton. 59 F.2d 969 (2d Cir. 1932)); Peia v.Coan. No. 05 CV. 1029 (SRU), 2006 WL 798873, at *1 (D. Conn. Mar. 23, 2006). The doctrine is based on the principle that "a trustee in bankruptcy is an officer of the court that appoints him," In re Lehal Realty Associates. 101 F.3d at 276, and that the court has a "strong interest in protecting the trustee from personal liability for acts taken within the scope of the trustee's official duty." Peia. 2006 WL 798873, at *2; see In re Lehal Realty Associates, 101 F.3 dat 276.

Here, it appears that the bankruptcy court appointed defendant Sapir as a trustee in plaintiffs bankruptcy proceedings. As plaintiff does not allege that she obtained leave from the bankruptcy court before filing this instant action, this Court does not have jurisdiction to hear her claims regarding defendant Sapir's actions as a trustee. See Barton, 104 U.S. at 131; Peia, 2003 WL 798873, at *2.

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[2] Plaintiff should note that her remedy lies not in filing a new action alleging constitutional violations against individuals involved in her bankruptcy case, but in timely appealing the judgment in the bankruptcy case to the appropriate district court pursuant to 28 U.S.C. § 158(c).

Defendant Kava

Similarly, to the extent plaintiff seeks to assert claims against defendant Kava, the complaint must be dismissed. It is unclear what role defendant Kava played in the bankruptcy proceedings since plaintiff only names her as a defendant in the caption of the complaint and fails to make specific allegations against her. If plaintiff, however, brings this instant action against defendant Kava for her role as an attorney representing the bankruptcy estate, the claims must be dismissed for lack of jurisdiction pursuant to the Barton doctrine. The Barton doctrine has been extended to attorneys who represent the bankruptcy estate, as well as trustees. In re Nathurst 207 B.R. 755,758 (Bankr. M.D. Fla. 1997); see also hi re DeLorean Motor Co.. 991 F.2d 1236 (6th Cir. 1993); Peia. 2006 WL 798873, at *1. Thus, plaintiff cannot bring this instant action against defendant Kava for representing the bankruptcy estate until she has obtained leave from the bankruptcy court.

Moreover, to the extent plaintiff seeks to assert constitutional or civil rights against defendant Kava, her claims must still be dismissed. Although the complaint may liberally be construed as claims brought under 42 U.S.C. § 1983, see Haines v. Kemer. 404 U.S. 519, 520 (1972), she does not allege sufficient facts to sustain a § 1983 action. A claim for relief under § 1983 must allege that the defendant acted under color of a state "statute, ordinance, regulation, custom, or usage " 42 U.S.C. § 1983. Absent special circumstances suggesting concert of action between an attorney and a state actor, see Adickes v. S.H. Kress & Co., 398 U.S. 144,152 (1970); Singer v. Fulton County Sheriff 63 F.3d 110,119 (2d Cir. 1995); Osipova v. Dinkins. 907 F. Supp. 94,96 (S.D.N.Y. 1995); cf. Tower v. Glover. 467 U.S. 914,923 (1984) (conspiracy actionable under § 1983), the involvement of an attorney in court proceedings does not constitute the degree of state involvement or interference necessary to establish a claim under § 1983. Harris v. Ward. 418 F. Supp. 660,66162 (S.D.N.Y. 1976). See also

Geogia v. McCollum. 505 U.S. 42,53-54 (1992) explaining Polk County v. Dodson. 454 U.S. 312 (1981)); Rodriguez v. Weprin. 116 F.3d 62, 65 (2d Or. 1997); Housand v. Heiman. 594 F.2d 923, 924-25 (2d Cir. 1979) (per curiam); Lefcourt v. Legal Aid Society. 445 F.2d 1150,1155-57 (2d Cir. 1971); Repass v. New York City Police Department. 852 F. Supp. 173 .D.N.Y. 1994). Here, plaintiffs naming of Jody Kava as a defendant without specific allegations against her is insufficient to sustain a § 1983 action.

CONCLUSION

Accordingly, the complaint, filed *in forma pauperis* under 28 U.S.C. § 1915(a)(1), is dismissed pursuant to 28 U.S.C. §§ 1915(e)(2)(B)(ii), (iii). I certify pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith. See Coppedge v. United States. 369 U.S. 438,444-45 (1962).

SO ORDERED

S/ _____

KIMBA M. WOOD
Chief Judge

Date: 8/14/06
New York, New York

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

SHIRLEY A. BROWN, Plaintiff, -against- Hon. Cornelius Blackshear; Jeffrey Sapir, Trustee Jody Kava, Esq. Defendants	Complaint "Jury Trial Demanded"

I.

The following defendants are being sued because my Chapter 13 Bankruptcy Case No 99B46584 was not handled properly.

A. Honorable Cornelius Blackshear United States Bankruptcy Court United States Custom House one Bowling Green New York, New York 10004

B. Jeffrey Sapir, Trustee
Jody Kava, Esq.
300 Knollwood Road Suite 102
White Plains, New York 10603

II. **Statement of Facts**

1. On December 15,1999, Chapter 13 Bankruptcy was filed on my behalf by Peter F. Anderson, Jr., Esq.
2. On March 30, 2000, Judge Blackshear extended me time to become current with Aames Capital Corporation and with Jeffrey Sapir.
3. At my bankruptcy hearing on June 8, 2000, the Court granted me time to clear a bank check in the amount of $23,309.00.
4. At my examination hearing on June 22, 2000, I gave Jeffrey Sapir a Citibank official check for $9,111.86 and I informed the Court that I had mailed my personal check to Aames Capital Corporation for $8,217.00. According to my calculations, these payments made me current through June 2000. At this juncture I was not represented by an attorney.
5. On July 12, 2000, a property search confirmed that the property known as 1659 Hammersley Avenue, Bronx, New York 10469 had been foreclosed December 17, 1999 which was "two" days after I filed for bankruptcy protection,
6. At my August 3, 2000 hearing I informed the Court of my findings because the Court was on vacation,

during the month of July. Even so, I was willing to continue my payments, once the property was deeded back to me. A copy of my letter which was read into court records is attached.

7. The Court as well as, the trustee should have been aware of the foreclosure. The Court should have "voided" the sale.

8. Instead of making the sale null and void, the Court granted Aames Motion lifting the "Automatic stay" which allowed Aames to schedule a new sale on December 14, 2000. At this sale Aames resold the properly to itself.

9. I was not aware of this sale until December 1, 2000. At my December 7, 2000 hearing, the Court stated "diey [Aames] just basically thought, forgot about that first foreclosure and start all over." (Bankruptcy Transcript page 5 lines 22-23).

10. The Court should have allowed me adequate time to start over. Instead after being in Bankruptcy Court for twelve months, Your Honor dismissed my case with prejudice in January 2001.

III.

I believe that this Court has jurisdiction, since it governs the southern district of New York, and the

Bankruptcy Court is within the southern district of New York.

I am seeking monetary damages for one million dollars. The property 1 once owned has been completely demolished, although it was appraised for $225,000 in 1998.

Shirley A. Brown
1701 Joplin Avenue
Richmond, VA 23224
804 230-3397

PRO SE OFFICE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
DANIEL PATRICK MOYNIHAN LIMITED STATES COURTHOUSE
500 PEARL STREET, ROOM 230
NEW YORK, NEW YORK 10007

J. MICHAEL MCMAHON
CLERK OF COURT

Date: Apr. 03, 2006

Re: Shirley Brown v. Hon. Cornelius Blackshear, et al.

Dear Litigant:

Please be advised that your papers were received by the *Pro Se* Office on Mar 06, 2006. If there are any problems with your papers, they may returned to you.

If your papers are in order, they will be processed and assigned a docket number and a judge. You will be notified by mail when this is done. Unless directed by the Court, please **DO NOT** submit any other papers until you have been assigned a docket number.

If you have any questions regarding these procedures, you may contact this Office by letter or by telephone during our normal business hours, 8:30 a.m. – 5:00 p.m., Monday – Friday (except federal holidays). Please note that we cannot accept collect calls.

Sincerely,

Pro Se Clerk
(212) 805-0175

Appendix D

IMPORTANT NOTE:

YOU MUST IMMEDIATELY NOTIFY THE COURT OF ANY CHANGE OF YOUR ADDRESS BY SUBMITTING A LETTER TO THE *PRO SE* OFFICE OR YOU RISK DISMISSAL OF YOUR CASE.

rev. 7/03

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

X

SHIRLEY A. BROWN,

Plaintiff,

-against-

Hon. Cornelius Blackshear;
Jeffrey Sapir, Trustee
Jody Kava, Esq.

Defendants

X

Notice of Appeal

In a Civil Case

06CV6253
Docket Number

Notice is hereby given that SHIRLEY A. BROWN (party) hereby appeals to the United States Court of Appeals for the Second Circuit from the Judgment

[Describe it] COPY OF COMPLAINT IS ATTACHED 3 PAGES

entered in this action on the 14TH day of AUGUST, 2006

Signature

1701 JOPLIN AVENUE
RICHMOND, VIRGNIA
23224
Address

(804) 230-3397
Telephone Number

Date: AUGUST 29, 2006

Note: You may use this form to take an appeal provide that it is received by the office of the Clerk of the District Court within 30 days of the date on which the judgment was entered (60 days if the United States or an officer or agency of the United States is a party)

Form 1-CA/SNY-8-87

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

----------X

In the Matter

of

SHIRLEY A. BROWN,

Debtor.

Case No.
99-B-46584

----------X

August 3, 2000

United States Custom House
One Bowling Green
New York, New York 10004

Adj. From 8/3/00 (5); Adj. Hrg Re: Confirmation of Debtor's Chapter 13 plan; Adj. Hrg. Re: Debtor's objection to Chapter 13 Trustee's Order to dismiss case.

B E F O R E :

HON. CORNELIUS BLACKSHEAR,

Bankruptcy Judge.

SHIRLEY A. BROWN

A P P E A R A N C E S :

JEFFREY L. SAPIR, ESQ.

Chapter 13 Trustee

399 Knollwood Road

White Plains, New York 10603

BY: JODY L. KAVA, ESQ., of Counsel

ALSO PRESENT:

SHIRLEY A. BROWN

PROCEEDINGS

MS. KAVA: Your Honor, Ms. Brown just handed me a letter that is actually addressed to you with a copy to Mr. Sapir dated today. It says that.: Dear Judge Blackshear, I am writing in objection to the sale of my property. I became aware that the sale of had actually gone through on July 12 of 2000. On that date, I obtained a computer printout of a copy of the deed which is registered to Ames Capital. As of August 1st the property remains in the name of Ames Capital.

"Your Honor, I am current with the mortgage company and with Mr. Sapir through June 2000. I want to make payments with you until the property is back in my name.

"I beg the Court to forgive me if I am wrong since I don't have an attorney at the present time. My initial lawyer, Peter Anderson and his replacement, Paul Krasnick have been dismissed. The reasons for the dismissal are discussed within the attached letters to the disciplinary committee.

"I would have obtained a new lawyer,

but Mr. Krasnick did not return the $600 which he promised.

"Thank you for you consideration."

The Debtor's plan calls for payments of $1,155 for 60 months. She has made the payments although I am not quite sure how given her budget is showing less than that on a monthly basis to be able to pay.

There are insufficient funds to pay the claims filed, and my understanding is that the stay had been lifted several months ago.

THE COURT: That is why the moved forward with the foreclosure action.

MS. KAVA: I understand.

Excuse me, Ms. Brown, did you send another copy of this to my office?

MS. BROWN: No, I just, I have one for the Judge here.

MS. KAVA: Then I will give this.

THE COURT: I don't need it.

MS. KAVA: I will keep the one.

THE COURT: Ms. Brown, I strongly suggest that you obtain counsel to address the issue because really to be honest, if you are

asking me for legal advice, I cannot give you legal advice.

MS. BROWN: Yes, I am going to get an attorney, Your Honor. I am in the process of getting one.

THE COURT: In a hurry, in a hurry.

I will adjourn this matter to September 7 at 2:00 PM. At that time, you need to have all of the matters resolved. And I am going to especially take a look at your budget to see if you can afford to pay. If you cannot afford to pay the amount of money you indicated, it means you need to get an Affidavit from someone that will basically agree to pay the amount that

you are short by.

What else did you say, Ms. Kava?

MS. KAVA: There were insufficient funds in the plan to pay the claim filed.

THE COURT: You need to basically raise the budget up to the amount that would be required to pay your Creditors off.

Now, if you do that, not only that, that if the house is being foreclosed upon, I don't see any need for you to be staying in

I wanted to ask you, how come they foreclosed on the property and I had filed the Chapter 13?

THE COURT: I lifted the automatic stay to allow them to do that.

MS. BROWN: That allowed them to do that?

THE COURT: Yes, I gave them relief from the automatic stay. Basically on that, they went and foreclosed on your property.

MS. BROWN: That was on the 17th of December. I had filed on the 15th of December. They did this on the 17th of December. I paid

money to the Court

THE COURT: Wait a minute, hold it.

MS. KAVA: Notice for presentment of lifting the stay was in April, Your Honor.

THE COURT: So they probably did not forward

MS. BROWN: I still don't understand, Your Honor. I have been in Court about five times.

THE COURT: It does not matter

That is why you need an attorney because I just explained to you, I explained to you how they foreclosed and you didn't understand.

I cannot go any further without giving you legal advice, and I am not allowed to give Debtors legal advice. So you need to get yourself an attorney and the attorney will explain to you what has transpired. And if the bank has done something wrong, then an attorney would know what motions to make before me.

MS. BROWN: Okay, thank you.

THE COURT: You are welcome.

SHIRLEY A. BROWN

C E R T I F I C A T E

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YOUR)

I, SYLANDIA BROCK, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify:

I reported the proceedings in the within-entitled matter, and that the within transcript is a true record of such proceedings.

I further certify that I am not related, by blood or marriage, to any of the parties in this matter and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 15th day of September 2000.

S/_____
SYLANDIA BROCK

STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ELIOT SPITZER
Attorney General

CAITLIN J. HALLIGAN
Solicitor General

(212) 416-8023

October 31, 2006

Anna Steglich,
Deputy Clerk
United States Court of Appeals
for the Second Circuit
40 Foley Square
New York, NY 10007

Re: Brown v. Blackshear, No. 06-4786-cv

Dear Ms. Steglich:

I am writing in response to the docketing letter that your Office sent to this Office. Because there is no State party in this appeal, we are unable to appear as counsel. Therefore, I am returning the docketing letter and its enclosures to you.

The district court docket shows that the defendants-appellees are not any New York State officers, employees or agencies, but instead a former United States Bankruptcy Judge, Cornelius Blackshear; a bankruptcy trustee, Jeffrey Sapir; and a private attorney, Jody Kava. Please remove Attorney General Spitzer from his erroneous listing on your Court's docket as counsel for the defendants-appellees. Thank you.

Sincerely,

David Lawrence III
Assistant Solicitor

General

Enclosures

cc (w/o encl.): Shirley A. Brown
1701 Joplin Avenue
Richmond, VA 23224

**120 Broadway, New York, NY 10271 • (212) 416-8020 •
FAX (212) 416-8962**